IN THE

UNITED STATES DISTRICT COURT

FOR THE

NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

Civil Action
No. 68C 673

LINDA MCINNIS, a minor, by CLOTEE MCINNIS, her mother and next friend, MATTHEW V. BOWDEN, a minor, by MRS. FLORENCE JOHNSON, his mother and next friend, LAVERN SMITH, a minor, by BERNICE SMITH, his mother and next friend, KIMBERLY RAY COBLER, a minor by RALPH COBLER, her father and next friend, MARK FIELDS, a minor, by MRS. LOUISE ALEXANDER, his mother and next friend, WILLIAM ALEXANDER, a minor, by MRS. LOUISE ALEXANDER, his mother and next friend, VIRGINIA RUTH SCRUGGS, a minor, by MRS. VIRGINIA SCRUGGS, her mother and next friend, all suing as individuals and as representatives of persons similarly situated, and Concerned Parents and People of the West Side, suing in behalf of the members of the class,

Plaintiffs,

v.

OTTO KERNER, Governor of the State of Illinois, RAY PAGE, Superintendent of Public Instruction of the State of Illinois, ADLAI E. STEVENSON, III, Treasurer of the State of Illinois, MICHAEL J. HOWLETT, Auditor of the State of Illinois,

Defendants,

COMPLAINT

Plaintiffs, LINDA MCINNIS, a minor, by CLOTEE MCINNIS, her mother and next friend, MATTHEW V. BOWDEN, a minor, by MRS. FLORENCE JOHNSON, his mother and next friend, LAVERN SMITH, a minor, by BERNICE SMITH, his mother and next friend, KIMBERLY RAY COBLER, a minor, by RALPH COBLER, her father and next friend, MARK FIELDS, a minor, by MRS. LOUISE ALEXANDER, his mother and next friend, WILLIAM ALEXANDER, a minor, by MRS. LOUISE ALEXANDER, his mother and next friend, VIRGINIA RUTH SCRUGGS, a minor, by MRS. VIRGINIA SCRUGGS, her mother and next friend, all suing as individuals and as representatives of persons similarly situated, and Concerned Parents and People of the West Side, suing in behalf of the members of the class, by their attorneys, CECIL C. BUTLER, EDWARD G. THOMSON, ZANE M. COHN and CURTIS HEASTON, complain of Defendants, OTTO KERNER, Governor of the State of Illinois, RAY PAGE, Superintendent of Public Instruction of the State of Illinois, ADLAI E. STEVENSON, Treasurer of the State of Illinois, MICHAEL J. HOWLETT, Auditor of the State of Illinois, and respectfully represent to this Honorable Court as follows:

1. This is a civil action on behalf of individual plaintiffs and all others similarly situated for (i) a judgment declaring unconstitutional those portions of Ill. Rev. Stat. 1967, Ch. 122, §§ 17-2 through 20-9, 32-1 through 32-7.3 and 34-22 *et seq.* which provide for and permit unequal per pupil expenditures for the education of Illinois school children, (ii) a preliminary and permanent injunction forbidding the defendants from continued enforcement of and reliance upon these statutory provisions, (iii) a declaratory judgment and a permanent injunction requiring defendants to submit to the court a plan for financing public educa-

tion consistent with the rights of plaintiffs under the Constitution of the United States of America and of the State of Illinois.

2. This cause of action arises under 42 U.S.C. §§ 1983 and 1988. The jurisdiction of this court is invoked pursuant to these provisions and to 28 U.S.C. § 1343. A declaratory judgment is sought pursuant to 28 U.S.C. §§ 2201 and 2202.

3. The action seeks an injunction having statewide effect against the continued enforcement and operation of statutes of the State of Illinois on the ground of their unconstitutionality. Therefore, application is hereby made for the convening of a three-judge Federal District Court to hear and determine this mattetr pursuant to 28 U.S.C. §§ 2281 and 2284.

4. Plaintiffs are all citizens of the United States of America and of the State of Illinois, who are enrolled in and attending public schools operated by the Boards of Education of the respective school districts, and are more particularly identified as follows:

a. Plaintiff, LINDA MCINNIS, is a minor and brings this action by her mother and next friend, CLOTEE MCINNIS. LINDA MCINNIS resides within the City of Chicago under the jurisdiction of Cook County District No. 299 and within District 7 of said District. LINDA MCINNIS has for two and one-half years attended Waller High School within Cook County District No. 299, has completed the first two and one-half years of high school and with the Fall term of 1968 will in the normal course enter the senior curriculum of said Waller High School.

b. Plaintiff, MATTHEW V. BOWDEN, is a minor and brings this action by his mother and next friend, MRS. FLOR-

ENCE JOHNSON. MATTHEW V. BOWDEN resides within the City of Chicago under the jurisdiction of Cook County District No. 299 and within District 2 of said District. MATTHEW V. BOWDEN has for one and one-half years attended Sullivan High School within District 2 of Cook County District No. 299, has completed the first one and one-half years of high school and commencing with the Fall term of 1968 will in the normal course enter the junior curriculum in said Sullivan High School.

c. Plaintiff, LAVERN SMITH, is a minor and brings this action by his mother and next friend, BERNICE SMITH. LAVERN SMITH resides within the area under the jurisdiction of Cook County District No. 299, and within District 10 of said District. LAVERN SMITH has for three and one-half years attended Crown Elementary School within District 10 of Cook County District No. 299, has completed the first five and one-half years of elementary school, and commencing with the Fall 1968 term will in the normal course enter the seventh grade in said Crown Elementary School.

d. Plaintiff, KIMBERLY RAY COBLER is a minor and brings this action by her father and next friend, RALPH COBLER. KIMBERLY RAY COBLER resides in Posen, Illinois within the area under the jurisdiction of Cook County District No. 143½ KIMBERLY RAY COBLER has for one and one-half years attended Posen Elementary School within Cook County District No. 143½, has completed two an one-half years of elementary school, and commencing with the Fall 1968 term will in the normal course enter the fourth grade at said Posen Elementary School.

e. Plaintiffs, MARK FIELD and WILLIAM ALEXANDER, are minors and bring this action by their parent and next

friend, MRS. LOUISE ALEXANDER. MARK FIELDS resides in Chicago Heights, Illinois, within the area under the jurisdiction of Cook County District No. 170. MARK FIELDS has for one and one-half years attended Franklin Elementary School within said district, has completed the first one and one-half years of elementary school, and commencing with the Fall 1968 school term will in normal course enter the third grade of said Franklin Elementary School. WILLIAM ALEXANDER resides in Chicago Heights, Illinois, within the area under the jurisdiction of Cook County District No. 170. WILLIAM ALEXANDER has for seven and one-half years attended Washington School within said district and has completed seven and one-half years of elementary school.

f. Plaintiff, VIRGINIA RUTH SCRUGGS, is a minor and brings this action by her mother and next friend, MRS. VIRGINIA SCRUGGS. VIRGINIA RUTH SCRUGGS resides in East Chicago Heights, Illinois, within the area under the jurisdiction of Cook County District No. 169. VIRGINIA RUTH SCRUGGS has for three and one-half years attended Cottage Grove School, has completed the first three and one-half years of elementary school, and commencing with the Fall 1968 school term will in normal course enter the fifth grade of said Cottage Grove School.

g. Plaintiff, the Concerned Parents and People of the West Side, is a not-for-profit corporation organized under the laws of the State of Illinois maintaining offices in the City of Chicago, County of Cook, Illinois, whose purpose is to improve the quality of educational facilities and services available to the citizens of Chicago and in particular to the citizens of an area within Chicago popularly known as "Lawndale." Membership in Plaintiff corporation is open to

all citizens of the City of Chicago, Illinois. The "Lawndale" area is under the jurisdiction of Cook County District No. 299 and within districts 8, 10 and 19 of said District.

5. This is a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure. The class is all those students in the public schools of Cook County District No. 143½, 169, 170 and 299.

6. The class is so numerous that joinder of all members in this action is impracticable. There are questions of law or fact common to the class. Questions of law or fact common to the members of the class predominate over any questions affecting only individual members. The claims of Plaintiffs are typical of the claims of the class, and they and their attorneys will fairly and adequately protect the interests of the class. The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications which would establish incompatible standards of conduct for Defendants and a further risk of adjudications which would, as a practical matter, be dispositive of the interest of members of the class not parties to the adjudication. The class action is superior to other available methods for the fair and efficient adjudication of this controversy.

7. Defendants are Otto Kerner, Adlai E. Stevenson, III, Ray Page, and Michael J. Howlett. They are respectively Governor, Treasurer, Superintendent of Public Instruction, and Auditor, all of the State of Illinois. They are charged in their official capacities with the application and execution of the statutory scheme challenged in this suit. Defendants have enforced this statutory scheme generally and with regard to the class of plaintiffs, thereby making appropriate

declaratory and injunctive relief with respect to the class as a whole.

8. Under Art. VIII § 1 of the Illinois Constitution of 1870 and other applicable law, the State of Illinois is charged with and has assumed the responsibility of maintaining and supporting a thorough and efficient system of free public schools in which all children of the State may receive a good common school education.

9. The State of Illinois purports to fulfill its obligations to provide a thorough and efficient system of free public schools for all children by (i) establishing and maintaining school districts and delegating to each the limited power to levy and collect local school taxes and issue bonds and (ii) appropriating and disbursing directly to the several school districts sums of money from the Common School Fund of the State.

10. The statutory system under which the several school districts finance the education of their children is based upon (i) the assessed valuation of taxable property within the district (ii) the population of the school district (iii) limits set by state statute upon the tax rate applicable to the assessed valuation of taxable property (iv) limits set by State statute upon the power of school districts to issue bonds and (v) the results of various referenda for tax increases and bond issues. Ill. Rev. Stat. 1967, Ch. 122, 17-1 *et seq.*, § 19-1, *et seq.*, § 20-1, *et seq.*, § 32-5, *et seq.*, § 34-22 *et seq.*

11. The statutory system under which the State appropriates sums of money from the Common School Fund to the several school districts is based upon a formula that provides for a uniform grant per pupil in attendance plus an "equalization" grant designed to establish a minimum

total per pupil expenditure in each school district. Ill. Rev. Stat. 1967, Ch. 122 § 18-1 *et seq.*

12. For many years, numerous school districts of the State, including those in which Plaintiffs attend school, have levied real and personal property taxes for the support of schools at or near the highest rates permitted under the law of the State of Illinois and have consequently exercised to the fullest extent the power that has been delegated to them to raise monies for the maintenance of the schools of the district.

13. Nevertheless, the total per pupil expenditures in many school districts of the State of Illinois, including those in which Plaintiffs attend school, are far below the total per pupil expenditures in certain other school districts within the State of Illinois.

14. Because the taxing scheme is based upon local property values, which vary substantially between districts and over a period of time, disparities in local tax receipts for education would continue even if the maximum taxing powers of the respective districts were raised.

15. As a direct result of this substantial disparity in expenditures, there exist material disparities in the quality of educational programs, facilities and services provided to school children residing in various school districts within the State of Illinois.

16. As a direct result of the method of financing public education, there exist material disparities in the level of educational attainment achieved by students in different school districts within the State of Illinois. The class of plaintiffs attend school in school districts where in the record of educational achievement is markedly lower than in certain other school districts within the State of Illinois.

17. As a direct result of the method of financing public education, the class of Plaintiffs do not possess the normal reading, mathematical and other skills for their respective age and grade level.

18. By authorizing and continuing this method of financing public education, the State of Illinois has denied, and continues to deny, Plaintiffs:

a. the equal protection of the laws and due process of laws in contravention of the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States of America in that classifications upon which students will receive the benefits of a certain level of per pupil educational expenditures are not related to the educational needs of these students and are therefore arbitrary, capricious and unreasonable;

b. the equal protection of the laws and due process of law in contravention of the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States of America in that the method of financing public education fails to consider (i) geographical variations in school needs, school construction costs, teacher and professional salaries, and other similar costs (ii) the added costs necessary to educate those children from culturally and economically deprived areas (iii) the variety of educational needs of the several public school districts of the State of Illinois and (iv) the need to correct marked differences in the quality of public school facilities, equipment, programs, and services that have arisen from the past application of similar financing schemes;

c. the equal protection of the laws in contravention of the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States of America

in that the method of financing public education fails to provide to each child an equal opportunity for an education; and

d. the equal protection of the laws in contravention of the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States of America in that the class of Plaintiffs but not others are denied a good common school education.

19. The injury to the plaintiffs herein and to the members of their class as a result of the method of financing is irreparable, and the plaintiffs and the members of their class will continue to be irreparably injured unless the relief requested by this complaint is promptly granted. Any other relief to which these plaintiffs and members of their class might be remitted would be attended by such uncertainties and delay as to be a denial of substantial relief and would involve a multiplicity of suits.

WHEREFORE, plaintiffs respectfully pray that:

a. The Court convene a three-judge District Court as required at 28 U.S.C., §§ 2281 and 2284;

b. The Court declare the school financing scheme detailed in paragraph 1 of this complaint to be unconstitutional and void;

c. The Court preliminarily, and after full hearing, permanently enjoin further enforcement of and reliance upon those provisions detailed in paragraph 1 of this complaint;

d. The Court preliminarily enjoin and, after full hearing, order Defendants to submit to the Court a plan to raise and apportion all monies expended on the publicly-

supported schools of this State in such a manner that such funds available to the school districts wherein the class of plaintiffs attend school will be sufficient to assure that Plaintiff children will receive the same educational opportunity as the children in any other district and to assure that Plaintiff children will receive a good common school education;

e. That the Court grant such further relief as shall be necessary and proper.

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